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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/739,206	12/19/2003	Sharon D. Patrick	DET1927	9873

7590 06/28/2004

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EXAMINER

STERLING, AMY JO

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 06/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/739,206

Applicant(s)

PATRICK, SHARON D.

Examiner

Amy J. Sterling

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/19/03.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

This is the first Office Action for application number 10/739,206 Tissue Paper Supporting Assembly, filed on 12/19/03. Claims 1-15 are pending.

Information Disclosure Statement

The information disclosure statement submitted on 12/19/03 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 15 recite the term, "plain of panel" which is confusing as to what "plain" refers. The claims were examined as if the term states "plane".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3632

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by United States

Patent No. 2992854 to Berlin.

The patent to Berlin discloses a device having a panel (46), the panel having a rear edge, a forward edge and a pair of lateral side edges, a pair of legs (42, 44) the legs (42, 44) having a lower end being attached to and extending upwardly from the rear edge, the legs (42, 44) being spaced from each other such that each of the legs is positioned adjacent to one of the side edges, each of the legs being positioned in a plane oriented substantial perpendicular to a plane of the panel (46), a bracket (48) attached to the legs and extended over the panel (46) such that a plane of the bracket is oriented substantially parallel to the plane of the panel, a coupler (50, 52) attached to an upper end of the legs for selectively coupling the legs to a vertical surface.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

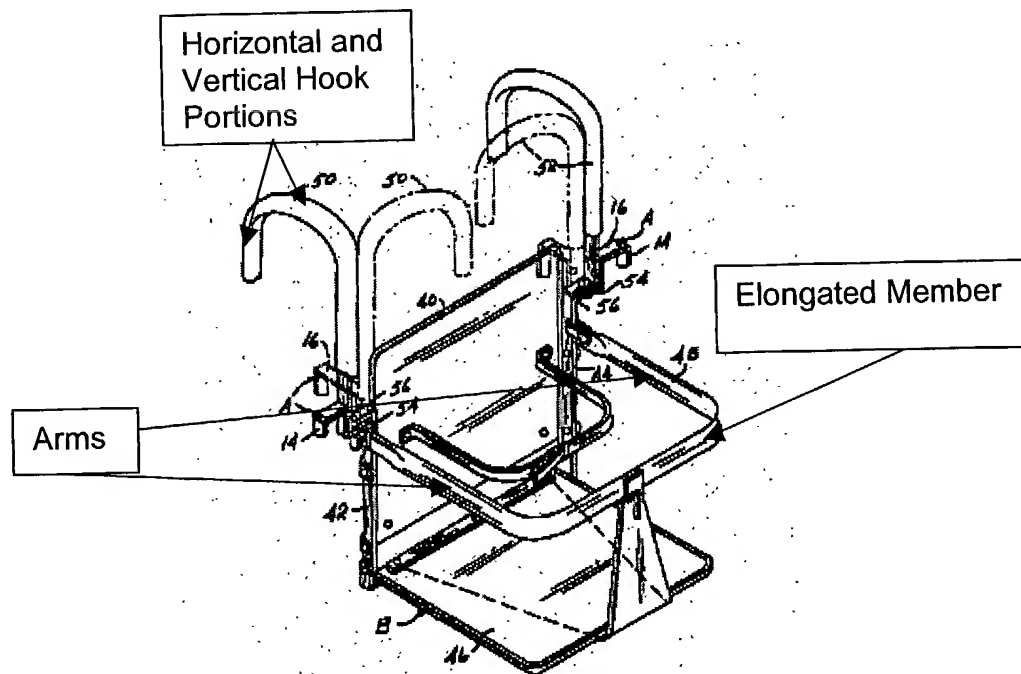
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over

United States Patent No. 2992854 to Berlin as applied to claims 1 above.

Art Unit: 3632

Berlin discloses the basic inventive concept including wherein the bracket (48) has an elongated member (See drawing Below) which is substantially the same length as the length of the panel, the bracket having a pair of arms (See Drawing) attached to and extending away from opposite ends of the elongated member, the arms being orientated perpendicular to the elongated member, each of the arms having a free end with respect to the elongated member, each of the free ends being attached to one of an outer edge of the legs. Berlin also discloses that the coupler (50, 52) includes a pair of hooks attached to the legs and extending in an opposite direction than the bracket (48), the hooks having a horizontal portion and a downwardly extending vertical portion spaced from the legs.



Berlin discloses the claimed invention except for the desired ranges of the dimensions, (width from rear to forward edge is 1 to 2 inches, length between 4 to 5

Art Unit: 3632

inches, length of panel between 9 and 10 inches, and the height between 4 to 5 inches). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have this range, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. See In re Aller, 105 USPQ 233. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Berlin to have any dimensions that is within a workable range, in order to optimize the device.

Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 2992854 to Berlin as applied to claims 1, 2 6 and 9-11 and further in view of United States Patent No. 6329583 to May.

Berlin discloses the applicant's basic inventive concept, all the elements which are shown above and including teaching that a brace (40) is further attached to the legs.

Berlin does not show a support attached to and extending between the vertical portion of the hooks, the support having at least two apertures extending therethrough, each aperture having an axis orientated perpendicular to the plane of the legs.

May teaches a device with a pair of legs (22) and a pair of hooks (23) with a vertical portion that teaches a support attached extending between the vertical portion of the hooks, the support (24) having at least two apertures (25) extending therethrough, each aperture having an axis orientated perpendicular to the plane of the legs (22), the apertured support used so that further support may be added to the device when it is attached to the vertical surface. Therefore, it would have been

Art Unit: 3632

obvious to one having ordinary skill in the art at the time the invention was made from the teachings of May to have added this apertured support, in order to add further support to the device and to make it sturdier.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following documents show various receptacle holders

6561399 to Loosbrock

6488246 to Song

6464086 to Klein

6398174 to Emalfarb

6285544 to Chandramohan

4730758 to McMurtrey

3591120 to Fietzer

3489385 to Dill, Jr.

3089597 to Kaplan

2672988 to Johnson

2470890 to Goodpasture

D367790 to Munoz et al.

D251999 to Bautista, Jr.

D298500 to Hisey

Application/Control Number: 10/739,206
Art Unit: 3632

Page 7

Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 703-308-3271. The examiner can normally be reached (M-F 8 a.m.-5:00 p.m.). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax machine number for the Technology center is 703-872-9306 (formal amendments) or 703-308-3519 (informal amendments/communications).

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 703-308-2168.



AJS
Amy J. Sterling
6/16/04



ANITA KING
PRIMARY EXAMINER